

Appl. No. 09/845,575
Arndt, Dated 10-14-2005
Reply to Office Action of September 2, 2005
Atty. Docket No. 03.0067

REMARKS/ARGUMENTS

Claims 1, 2, and 4-24 are pending in this application. Claims 1, 2, 21, 22, and 23 have been amended. Claims 1, 2, 21, 22, and 23 are independent claims. Applicant kindly requests favorable reconsideration of the application in view of the present amendments and the following discussion.

The claims have been amended to clarify claim terms—especially to clarify what a claim term comprises. For example, the term "links" was amended to "URL links" to emphasize that this term is not generic but is specifically described within the claim language to reference certain types of links. The description of "URL links" in the claim language particularly points out its scope. Such "URL links" include a characteristic that they are created by and point to a marketing control engine "in that humans who click on said URL links over a network are sent to said marketing control engine."

These amendments also help to clarify the meaning of "virtual web page" of the present invention. For example, such "virtual web page" "provides linking data designed so that a search engine search result for said target web page contains a URL link that points to said marketing control engine." Finally, the claims were amended to remove the § 112 objection—the phrase "to improve visibility" has been deleted to overcome any § 112 issue.

Claim 1

The Examiner asked the applicant to show that claim 1 is patentable over Finch, II in view of Davis et al., and further in view of Yacoby.

The current Office Action referenced sections of Finch II stating that these sections taught clauses from the claims. The majority of the references to Finch II, however, did not teach what the Office Action stated it taught, or did not teach the claim language of the present invention.

The current Office Action (pg. 3) states that **redirecting said identified human visitor from one of said links pointing to said marketing control engine to a web page in an existing web site of said online marketer** is taught by Finch at col. 4, lines 1-14. The Office Action then explains that Finch "provides a software add on to detect whether a user or a search engine spider accesses a search engine content page." While Finch teaches such a software add on for search engine content pages, the above-

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referenced claim language does not refer to "search engine content pages." The above-referenced claim language claims redirecting human visitors from one of **said links**. "Links" in the present invention are not described and claimed as "search engine content pages." Instead, URL links are links created by and pointing to a marketing control engine so that when a human clicks on one of such URL links, the human is first sent to said marketing control engine. While the present invention claims a type of search engine content page in a separate limitation, the above-referenced limitation limitation does not. "URL Links" as claimed in the present invention, refer to something different. Thus Finch does not teach this limitation.

The current Office Action (pg. 4) states that **distributing links across the Internet** is taught by Finch at col. 4, line 53 through col. 5, line 15. This reference to Finch does not teach the above claim limitation. The closest teaching from Finch in this section is "the search engine returns links to web sites." These returned links are merely search results from the search engine's own database of indexed websites. The present invention does not teach a search engine returning its own indexed links, instead the present invention claims a marketing control engine distributing URL links across the Internet. Thus Finch II does not teach this limitation.

The current Office Action (pg. 4) states that **analyzing web traffic generated through said marketing control engine** is taught by Finch at col. 3, lines 10-23. The Office Action supports this by stating that Finch "provides a maintaining advertisements upon the client web server upon the internet traffic." The explanation of Finch from the Office Action itself does not state that Finch teaches "analyzing web traffic," let alone analyzing web traffic "generated through said marketing control engine." This cited section of Finch discusses if/then programming triggers of the software add on. Finch discloses how the software add on automatically downloads new advertisements when triggered by low Internet traffic, or by a designated periodic update. In contrast, the present invention does not teach downloading new advertisements from upon certain triggers. The present invention teaches "analyzing web traffic generated through said marketing control engine." Thus Finch II does not teach this limitation.

The current Office Action (pg. 4) states that **said links created through a marketing control engine, and wherein said links point to said marketing control engine** is taught by Davis at col. 15, line 40 through col. 9, line 7 (presumably col. 7, line 58).

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through col. 8, line 29). The Office Action, however, explains that Davis "discloses a client computer with a browser program connected to the network of hundred of thousand computer to locate the web pages stores on advertiser server." A browser program networked to locate web page stores is not what the above-referenced limitation states. This reference does not show that Davis teaches "creating links through a marketing control engine," nor does it teach "wherein said links point to a marketing control engine." In this section of the specification, Davis teaches how a search engine server works and does not disclose marketing control engines nor links pointing to said marketing control engines.

The current Office Action (pg. 6-8) states **wherein said virtual web page provides linking data such that a search engine search result for said virtual web page contains a URL that points to said marking control engine** is taught by obvious modifications to Davis. The Office Action states it would be obvious to modify Davis "to provide an automated system, that use automated search technology to catalog search results that rely on invisible web site description, or 'meta tags', that are allows Web site owners the flexibility to tag their sites as they choose to prioritize results in according with consumer references." While Davis teaches invisible web site descriptions and meta tags, the present invention does not claim this or teach this in the specification. The present invention, as amended, claims "provides linking data designed so that a search engine search result for said target web page contains a URL link that points to said marketing control engine." Davis does not teach or suggest this. Furthermore Davis does not teach virtual web pages (similar to search engine content pages), and, instead, Davis relates to pay-for-placement search results and the keyword selection to get desired, paid results. The present invention focuses on organic search results and not paid search results. Thus Davis combined with Finch does not disclose this limitation.

As required, by M.P.E.P § 2143:

To establish a *prima facie* case of obviousness, three basic criteria must be met.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or

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references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicant's disclosure.

As demonstrated above, the prior art reference combination does not teach or suggest all of the claim limitations of the present invention. The reference combination fails to teach (1) "distributing URL links across the Internet wherein said URL links include marketing links and search engine search results, said URL links created through a marketing control engine, and wherein said URL links point to said marketing control engine in that humans who click on said URL links over a network are sent to said marketing control engine," (2) "redirecting human visitors, who click on said URL links, from said marketing control engine to a web page, in an existing web site, that corresponds to said clicked URL link," and (3) "dynamically creating a virtual web page, for said target web page, wherein content of said virtual web page is tailored to a specific search engine to increase search engine rankings for said target web page, and wherein said virtual web page provides linking data designed so that a search engine search result for said target web page contains a URL link that points to said marketing control engine." Because the reference combination fails to teach all the claim limitations of the present invention, the claims of the present invention are believed to be allowable.

The Was No Suggestion or Motivation to Combine Davis and Yacoby with Finch II

In addition to the claims being patentable because the reference combination does not teach all of the claim limitations, the reference combination also fails to establish a *prima facie* case of obviousness because there is no "suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings."

The applicant acknowledges that Finch II is relevant to patentability because Finch II discusses search engine content pages. The Office Action, however, erroneously combined Davis and Yacoby with Finch II. There is no suggestion within Davis and Yacoby to combine these references either with each other or with Finch II. There is also no motivation for a person of ordinary skill in the art to combine these references. The

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present invention relates to a marketing control engine to distribute URL links across the Internet, and particularly within organic search results of search engine results pages. Search engine results pages typically display two basic types of links: (1) links to pages, indexed by the search engine, that the search engine's algorithm determines are most relevant to a search query (organic results), and (2) links to pages paid for by online marketers (paid results). Online marketers aiming for highly-ranked paid links typically bid against other online marketers. Davis relates to this bidding process. Davis is essentially a pay-for-placement bidding system. The Davis abstract states, "each account contains at least one search listing having at least three components: a description, a search term, and a bid amount," and "the network information provider influences the position for a search listing through a continuous online competitive bidding process." The process of influencing organic search results is substantially different than paying for a link to be displayed. Thus, a person of ordinary skill in the art looking to manipulate organic search results would not be motivated to consider pay-for-placement bidding technology.

Yacoby is even more unrelated to the present invention than Davis. Yacoby is essentially a method of locating web pages using telephone numbers instead of domain names. A user of Yacoby can enter a telephone number of an entity in the URL line of a browser and be redirected to the website associated with the entity. Technology for entering telephone numbers instead of domain names is unrelated to distributing specific URL links and creating virtual web pages. Thus a person of ordinary skill in the art would have no motivation to consider telephone number domain name technology to solve the problems identified in the disclosure of the present invention.

Since Davis and Yacoby do not relate the problems solved by the present invention, it appears that the only way these two references would have been discovered and combined would be by keyword searching on the claim limitations of the present invention to then stitch together a few patents to somehow teach all of the claim limitations of the present invention. But doing so would constitute gleaning knowledge from the applicant's disclosure and thus an improper reconstruction. As taught in MPEP § 2141, when applying 35 U.S.C. § 103, "the references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention." To include Yacoby and Davis in the reference combination a person in the art would have needed to take into account knowledge which was above the level of ordinary skill at the time the claimed

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invention was made. Because there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings, the claims of the present invention are believed to be allowable.

Claims 2 and 4-24

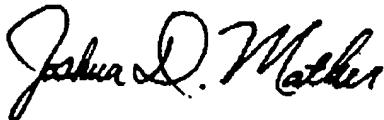
Independent claims 2, 21, 22, and 23, incorporate substantially similar subject matter, and are therefore believed to be allowable for the same reasons, explained above, that claim 1 is believed to be allowable. Claims 4-20 and 24 each depend on one of the independent claims. Each of the dependent claims incorporates all of the limitations of the independent claim upon which it depends. Because all of the independent claims are patentable over the reference combination, all of the dependent claims are likewise patentable over the reference combination. Therefore claims 2 and 4-24 are believed to be allowable.

Summary

The claims are patentable for two reasons. First, the reference combination does not teach all of the claim limitations of the present invention—indeed there are several limitations that the reference combination fails to teach. Second, there is no motivation to combine the reference teachings. To improve visibility through organic search results, there is no motivation, suggestion or knowledge available at the time of the invention to combine a pay-per-click bidding system (Davis) and a telephone number domain name look-up.

For all the reasons advanced above, Applicant respectfully submits that the application is in condition for allowance. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully Submitted,



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